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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE **PATENT**

Atty Docket No.: A01463

In re application of: Brian Michael Bridgewater et al.

Confirmation No. 3734

Serial No.: 10/700,078

Group Art Unit: 1714

Filed: November 3, 2003

Examiner: Vickey Ronesi

For: Aqueous Coating Composition Comprising Emulsion Polymer Formed In The Presence of Thermal Initiator And Neutralizer

DECLARATION OF MATTHEW S. GEBHARD UNDER 37 C.F.R. §1.132

This declaration explains why the data presented in Table 4.1 of Patent Application Serial Number 10/700,078 is data representative of the constituent polymers of Examples 1 and 2 and Comparative Examples A-D.

The Declarant

(1) My name is Matthew S. Gebhard, and I reside at 158 Woodland Dr. Road, New Britain, PA 18901. I received my B.S. in Chemistry from San Francisco State University in 1985, and my PhD in Chemistry from Stanford University in 1990. I am a named inventor on this application.

(2) I have been employed by Rohm and Haas Company since 1990, most recently as a Senior Chemist in Coatings Applications. My primary job responsibility over that 15-year period was the experimental design of new emulsion polymers and their evaluation, specifically in their use in the coatings industry. During that time, I performed many evaluations of emulsion polymers using the scrub machine apparatus and had others perform such evaluations under my direction, including evaluation of the emulsion polymers of this Patent Application.

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The September 15, 2005 Office Action

(3) I reviewed this Office Action and understand that the Examiner rejected pending Claims 1-5 and 7-9 as obvious over Friel (US 5,731,377). In particular, the Examiner indicated that Examples 1 and 2, and Comparative Examples A, B, C, and D are not proper side-by-side examples since each one has a different amount of rheology modifier (Table 3.1, pages 19-20). As explained below, I believe the side-by-side comparisons are appropriate, and I believe that our Claims are unobvious over the earlier work of Friel.

Scrub Resistance Data (Number of Scrubs)


(4) The scrub resistance data presented in Table 4.1 in the Application is representative of the polymers used in Example 1 and 2, and Comparative Examples A-D. This is because the only other variable in these examples is the thickener used to bring about a constant viscosity. This is required in order to produce coatings of equal dry film thickness, which is required in order to provide a fair sample-to-sample comparison for coatings evaluated by the scrub machine apparatus.

(5) This still presents a fair comparison of the data for the polymers because, in my experience, and in my opinion, the thickener has no significant effect on the scrub resistance of a given paint formulation at a given film thickness, and is therefore not impacting the data presented in Table 4.1. The polymer (binder) has the dominant effect in controlling the scrub resistance of coatings of equal thickness.

Statement Under 28 U.S.C. §1746

(6) I declare that all statements made in this declaration of my own knowledge are true. I believe that all statements made herein on information and belief also are true. Furthermore, I understand that willful false statements and the like so made are punishable by fine or imprisonment, or both, under the United States Code, and such willful false statements may jeopardize the validity of any patent application or patent that may issue on this patent application.

Dated: 11-15-2005


Matthew S. Gebhard